

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1179

To amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, JULY 10), 1995

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Small Non-Coal Pro-  
5       ducing Company Relief Act”.

1 **SEC. 2. REDUCTION IN CONTRIBUTIONS OF CERTAIN PER-**  
2 **SONS TO COAL MINERS COMBINED BENEFIT**  
3 **FUND.**

4 (a) IN GENERAL.—Part II of subchapter B of chap-  
5 ter 99 of the Internal Revenue Code of 1986 (relating to  
6 financing of Combined Benefit Fund) is amended by in-  
7 serting after section 9704 the following new section:

8 **“SEC. 9704A. REDUCTIONS IN ANNUAL PREMIUMS OF CER-**  
9 **TAIN ASSIGNED OPERATORS.**

10 “(a) GENERAL RULE.—The annual premium of an  
11 assigned operator under section 9704(a) shall—

12 “(1) in the case of an eligible small assigned  
13 operator, be reduced as provided in subsection (b),  
14 and

15 “(2) in any case in which there is a surplus in  
16 the Combined Fund to which subsection (c) applies,  
17 be reduced as provided in subsection (c).

18 “(b) REDUCTIONS FOR ELIGIBLE SMALL ASSIGNED  
19 OPERATORS.—

20 “(1) IN GENERAL.—If this subsection applies to  
21 an eligible small assigned operator for any plan year  
22 of the Combined Fund, the annual premium under  
23 section 9704(a) for such operator for such plan year  
24 shall not exceed 5 percent of the operator’s average  
25 annual taxable income for purposes of chapter 1 for  
26 the 5-taxable year period ending with the operator’s

1 most recent taxable year ending before the beginning  
2 of the plan year.

3 “(2) YEARS TO WHICH SUBSECTION APPLIES.—

4 “(A) IN GENERAL.—This subsection shall  
5 apply to any plan year of the Combined Fund—

6 “(i) which begins before October 1,  
7 1998,

8 “(ii) which begins after September 30,  
9 1998, and before October 1, 2003, but  
10 only if the Combined Fund has a surplus  
11 as of the close of the plan year ending Sep-  
12 tember 30, 1998, equal to or greater than  
13 \$150,000,000, or

14 “(iii) which begins after September  
15 30, 2003, but only if the Combined Fund  
16 has a surplus as of the close of the plan  
17 year ending September 30, 2003, equal to  
18 or greater than \$100,000,000.

19 “(B) COORDINATION WITH SURPLUS RE-  
20 Ductions.—This subsection shall not apply to  
21 any eligible small assigned operator for any  
22 plan year for which no annual premium is im-  
23 posed on such operator by reason of subsection  
24 (c).

1 “(3) ELIGIBLE SMALL ASSIGNED OPERATORS.—

2 For purposes of this section—

3 “(A) IN GENERAL.—The term ‘eligible  
4 small assigned operator’ means any assigned  
5 operator—

6 “(i) the average annual gross income  
7 of which for purposes of chapter 1 for the  
8 5-taxable year period ending with the oper-  
9 ator’s most recent taxable year ending be-  
10 fore October 1, 1993, did not exceed  
11 \$25,000,000, and

12 “(ii) which is not engaged in the pro-  
13 duction of coal for the plan year for which  
14 the determination is being made.

15 For purposes of this subparagraph, production  
16 by a related person shall be treated as produc-  
17 tion by the assigned operator.

18 “(B) PRODUCTION OF COAL.—For pur-  
19 poses of subparagraph (A), an assigned opera-  
20 tor or related person shall be treated as en-  
21 gaged in the production of coal if it has em-  
22 ployed employees in—

23 “(i) the extraction of coal, or

24 “(ii) the preparation, processing, or  
25 changing of coal for sale.

1           “(4) AGGREGATION RULES.—In determining  
2           gross income or taxable income for purposes of this  
3           section, an assigned operator and any related per-  
4           sons shall be treated as 1 person.

5           “(c) REDUCTIONS BASED UPON FUND SURPLUS.—

6           “(1) ASSIGNED OPERATORS.—If, as of the close  
7           of any plan year ending after September 30, 1997,  
8           the Combined Fund has a surplus equal to or great-  
9           er than 50 percent of the net expenses of the Com-  
10          bined Fund for the plan year, no annual premium  
11          shall be imposed under section 9704(a) on any eligi-  
12          ble small assigned operator for the succeeding plan  
13          year.

14          “(2) OTHER OPERATORS.—If, as of the close of  
15          any plan year ending after September 30, 1997, the  
16          Combined Fund has a surplus equal to or greater  
17          than 100 percent of the net expenses of the Com-  
18          bined Fund for the plan year, the annual premium  
19          under section 9704(a) for the succeeding plan year  
20          of any assigned operator other than an eligible small  
21          assigned operator shall be reduced by an amount  
22          which bears the same ratio to the surplus in excess  
23          of 100 percent of the net expenses of the Combined  
24          Fund for the plan year as—

1           “(A) such assigned operator’s applicable  
2           percentage (expressed as a whole number),  
3           bears to

4           “(B) the sum of the applicable percentages  
5           (expressed as whole numbers) of all assigned  
6           operators other than eligible small assigned op-  
7           erators.

8           “(d) OVERALL LIMITATION.—

9           “(1) IN GENERAL.—In no event shall the total  
10          reductions in annual premiums payable to the Com-  
11          bined Fund under this section for any plan year ex-  
12          ceed \$5,000,000.

13          “(2) CALCULATION OF REDUCTIONS.—For pur-  
14          poses of paragraph (1), the total reductions in an-  
15          nual premiums for any plan year shall not include  
16          any reductions under this section in premiums pay-  
17          able by an eligible small assigned operator who,  
18          prior to the date of the enactment of this section,  
19          has not paid at least 50 percent of the premiums as-  
20          sessed such assigned operator for the period October  
21          1, 1994, through June 30, 1995.

22          “(3) ORDERING RULE.—Any decrease in pre-  
23          mium reductions under this section for any plan  
24          year by reason of paragraph (1) shall be applied  
25          first against the reductions under subsection (b) and

1 then against reductions under subsection (c). Any  
 2 such decreases shall be made ratably among opera-  
 3 tors.

4 “(e) COMPUTATION OF SURPLUS.—For purposes of  
 5 this section, any determination of a surplus in the Com-  
 6 bined Fund—

7 “(1) shall be calculated on an accrual basis,

8 “(2) shall be made and certified by an inde-  
 9 pendent auditor retained by the trustees, and

10 “(3) once so certified, shall be reviewable by a  
 11 court of law only to determine if such determination  
 12 is reasonable.

13 A determination shall be considered reasonable for pur-  
 14 poses of paragraph (3) if it is made in accordance with  
 15 generally accepted accounting principles and is based on  
 16 assumptions which, in the aggregate, are reasonable.”

17 (b) CONFORMING AMENDMENT.—The table of sec-  
 18 tions for part II of subchapter B of chapter 99 of the In-  
 19 ternal Revenue Code of 1986 is amended by inserting  
 20 after the item relating to section 9704 the following new  
 21 item:

“Sec. 9704A. Reductions in annual premiums of certain assigned opera-  
 tors.”

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to plan years beginning after Janu-  
 24 ary 31, 1993.

1 **SEC. 3. WAIVER OF PENALTIES.**

2 (a) IN GENERAL.—In the case of an eligible small  
3 assigned operator (as defined in section 9704A(b)(3) of  
4 the Internal Revenue Code of 1986, as added by section  
5 1), no penalty shall be imposed under section 9707 of such  
6 Code on any failure of such operator to pay any install-  
7 ment of a premium due under section 9704 of such Code  
8 before January 1, 1996, if the operator pays such install-  
9 ment before such date. For purposes of this subsection,  
10 the amount of the installment shall be determined after  
11 application of the amendments made by section 1.

12 (b) COMPLIANCE.—An operator shall not be treated  
13 as failing to meet the requirements of subsection (a) with  
14 respect to any installment if—

15 (1) the failure to pay the installment before  
16 January 1, 1996, was due to reasonable cause and  
17 not to willful neglect, and

18 (2) the failure is corrected within 90 days of  
19 the later of—

20 (A) notice of the failure, or

21 (B) a final administrative or judicial deter-  
22 mination of the amount of the installment  
23 which is not reviewable or appealable.

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